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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,255	12/27/2000	Gregory Flickinger	T727-10	5795

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EXAMINER	
SALCE, JASON P	

ART UNIT	PAPER NUMBER
2614	

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/749,255	FLICKINGER, GREGORY	
	Examiner	Art Unit	
	Jason P. Salce	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 April 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) *2-5,10-12 and 28-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-5, 10-12 and 28-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 2-12 and 28-40 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 10, 12, 28-33, 38 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. (U.S. Patent No. 6,177,931) in view of Hite et al. (U.S. Patent No. 6,002,393).

Referring to claim 28, Alexander discloses storing IPG ads (see Column 5, Lines 5-8), the IPG ads being stored in an ordered list (see Column 5, Lines 13-15).

Alexander also discloses storing programming ads (see Column 4, Lines 28-30), the programming ads being stored in an ordered list (see Column 34, Lines 10-13).

Alexander also discloses linking at least one IPG ad with at least one programming ad to form at least one IPG-programming ad combination (see Column 4, Lines 29-30 for linking a programming ad with the channel viewed and Column 5, Lines 7-8 for the virtual channel ad promoting a current or future television channel).

Alexander also discloses displaying one or more IPG ads from the at least one IPG-programming ad combination in the IPG when the IPG is invoked immediately prior to or immediately subsequent to the display of a programming ad, wherein the IPG ads are displayed in accordance with the IPG ad stored (see Figure 1 for window 14 displaying programming ads and cell 52 for displaying a virtual channel ad).

Alexander also discloses reordering the IPG ad stored in accordance with the displayed programming ad (see Column 19, Lines 13-37 for displaying information in the virtual ad channel and ad window when a sports or news channel is selected, therefore, if a different channel is selected different information in these areas are displayed and are therefore, inherently reordered).

Alexander fails to disclose the specific memory structure of a queue to store the IPG and programming ads.

Hite discloses the use of keeping data (specifically advertisements) in an Ad Queue of memory 616 (see Column 12, Lines 15-18).

It would have been obvious to a person of ordinary skill in the art, to modify the virtual ad channel and ad window storage, as taught by Alexander, using the Ad Queue, as taught by Hite, for the purpose of facilitating the substitution of targeted commercials in live events such as sports contests (see Column 12, Lines 18-21).

Referring to claim 10, Alexander discloses the interactive IPG ad allows a viewer to request additional information regarding a particular linked IPG ad including directly accessing a website via an EPG ad (col. 27, lines 19-47; col. 17, line 48 – col. 18, line 12).

Referring to claim 12, Alexander discloses the IPG ad is displayed in the IPG when the IPG is invoked during the presentation of one of the programming ads col. 26, line 61 – col. 27, line 2).

Referring to claim 29, see the rejection of claim 28 for displaying information in the virtual ad channel and ad window when a sports or news channel is selected, therefore, if a different channel is selected different information in these areas are displayed and are therefore, inherently reordered (see Column 19, Lines 13-37).

Referring to claim 30, Alexander teaches that the ads are displayed to advertise further information about a broadcast program (see Column 17, Lines 44-67 and Column 18, Lines 1-32).

Referring to claims 31-32, see the rejection of claims 28-29, respectively.

Referring to claim 33, see the rejection of claim 30.

Referring to claims 38 and 40, see the rejection of claims 10 and 12, respectively.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 2-3, 5, 34-35 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. (U.S. Patent No. 6,177,931) in view of Hite et al. (U.S. Patent No. 6,002,393) further view of Hendricks et al. (U.S. Patent No. 6,738,978).

Referring to claim 2, although Alexander and Hite suggest targeted advertisements, Alexander and Hite fail to specifically disclose wherein at least one of the IPG ads or at least one of the programming ads is a targeted ad, thus forming a targeted-IPG programming ad combination, as claimed.

However, Hendricks, in an analogous art, teaches targeted advertising wherein programming ads are targeted ads, and further, the targeted advertising routine incorporates subscriber groups with selected targeted advertisements assigned to groups of subscribers (Fig. **17**; col. 35, line 65 – col. 36, line 28; col. 37, line 1 – col. 38, line 55) for the benefit of utilizing viewer demographic information and viewing habits to determine those advertisements that are of the most interest to particular viewers (see col. 4, lines 48-51 and col. 5, lines 30-35).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the IPG-programming ad combination of Alexander and Hite to incorporate at least one of the programming ads is a targeted ad, thus forming a targeted IPG-programming ad combination, as taught by Hendricks for the benefit of utilizing viewer demographic information and viewer habits to determine those advertisements that are of the most interest to particular viewers in a television advertising system.

The limitations of claim 3 are encompassed by the teachings of Alexander in view of Hendricks, as discussed above relative to claim 2. Specifically, Hendricks teaches assigning advertisements to at least one subscriber group, the subscriber group comprising at least one subscriber (col. 38, lines 15-36).

The limitations of claim 5 are encompassed by the teachings of Alexander in view of Hendricks, as discussed above relative to claim 3. Specifically, Hendricks teaches discloses assigning programming ads to one or more subscriber groups (see Hendricks at (Fig. **17**; col. 35, line 65 – col. 36, line 28; col. 37, line 1 – col. 38, line 55). Alexander discloses forming an IPG-programming ad combination when the broadcast ad is displayed and the EPG is invoked during the display of the broadcast ad (see Alexander at col. 26, line 61 – col. 27, line 2). Thus, the IPG-programming ad combination is formed subsequent to the assignment of the programming ad to a subscriber group.

Referring to claims 34-35 and 37, see the rejection of claims 2-3 and 5, respectively.

4. Claims 4 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. (Alexander), U.S. Patent No. 6,177,931 in view of Hite et al. (Hite), U.S. Patent No. 6,002,393 in further view of Hendricks et al (Hendricks), U.S. Patent No. 6,738,978, as applied to clam 3, further in view of Esch, U.S. Patent No. 5,283,639.

As for claim 4, the teachings of Alexander in view of Hite in further view of Hendricks are relied upon as discussed above, relative to claim 3. Alexander in view of

Hite in further view of Hendricks fails to disclose the targeted IPG-programming ad combination is formed prior to the assignment of the combination to one or more subscriber groups, as claimed.

However, Esch, in an analogous art, teaches combining elements (text, audio, graphic overlays, etc.) of an advertisement prior to assignment of the advertisement to a targeted group (col. 11, lines 11-66; col. 8, line 42 – col. 9, line 17). The process of combining elements with advertisement data is analogous to the claimed procedure for combining the IPG ad element with the broadcast ad element. The motivation to combine the above teaching of Esch is to customize advertising communications at a remote site to combine content data signal with locally (e.g., local broadcast facility) originated content data signals (see col. 1, lines 58-64).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the targeted IPG-programming ad combination taught by Alexander in view of Hite in further view of Hendricks to incorporate the targeted IPG-programming ad combination is formed prior to the assignment of the combination to one or more subscriber groups, as taught by Esch, for the benefit of customizing advertising communications at a remote site to combine content data signals with locally originated content data signals in a television advertising system.

Referring to claim 36, see the rejection of claim 4.

5. Claims 11 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. (Alexander), U.S. Patent No. 6,177,931 in view of Hite et al. (Hite),

U.S. Patent No. 6,002,393 in further view of Boylan, III et al. (Boylan), U.S. Patent No. 6,799,326.

Referring to claim 11, the disclosure of Alexander and Hite are relied upon, as discussed above relative to claim 9. Alexander and Hite fail to disclose a viewer interaction with said IPG ad causes a related linked programming ad to be subsequently displayed.

However, Boylan, in an analogous art, teaches interactive IPG ads wherein the user selects a first (global) IPG advertisement and a second (local) ad, related and linked to the first ad, is subsequently displayed (Fig. **13**; col. 7, line 65 – col. 8, line 56, disclosing global and local advertisement data; col. 9, line 62 – col. 10, line 19, describing presentation of local advertisement subsequent to selection of global ad (i.e., local ad is related and linked to the selected global ad) for the benefit of providing additional local advertising information tailored to the particular region of the viewer (see col. 8, lines 4-7).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the interactive IPG advertisements of Alexander and Hite to incorporate a viewer interaction with said IPG ad causes a related linked programming ad to be subsequently displayed, as taught by Boylan, for the benefit of providing additional local advertising information tailored to the particular region of the viewer.

Referring to claim 39, see the rejection of claim 11.

Conclusion

6. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason P Salce
Patent Examiner
Art Unit 2614

June 21, 2005

JOHN MILLER
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